

PROPOSED

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ALABAMA

PLAN FOR RANDOM SELECTION OF GRAND AND PETIT JURORS

The following plan is adopted by this court pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861 *et seq.*, subject to approval by a reviewing panel of the Judicial Council of the Eleventh Circuit, and subject to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

I. APPLICABILITY OF THE PLAN

Jury Divisional Areas

The Northern District of Alabama encompasses thirty-one counties divided among seven divisions, defined by 28 U.S.C. § 81(a). For purposes of the Plan, the court shall be divided into the following four combinations of divisions, herein referred to as “Divisional Areas.”

- A. **Jury Area I**, the “**Northern Divisional Area**,” consists of the Northeastern and Northwestern divisions. Jury Area I encompasses Colbert, Franklin, Lauderdale, Cullman, Jackson, Lawrence, Limestone, Madison, and Morgan counties.
- B. **Jury Area II**, the “**Eastern Divisional Area**,” consists of the Eastern and Middle divisions. Jury Area II encompasses Calhoun, Clay, Cleburne, Talladega, Cherokee, De Kalb, Etowah, Marshall, and Saint Clair counties;
- C. **Jury Area III**, the “**Central Divisional Area**,” consists of the Southern division. Jury Area III encompasses Blount, Jefferson, and Shelby counties;
- D. **Jury Area IV**, the “**Western Divisional Area**,” consists of the Western and Jasper divisions. Jury Area IV encompasses Fayette, Lamar, Marion, Walker, Winston, Bibb, Greene, Pickens, Sumter, and Tuscaloosa counties.

II. POLICIES AND INTERPRETATION OF PLAN

It is the policy of this court that all litigants entitled to trial by jury shall have the right to juries selected at random from a fair cross-section of the community in the Divisional Area wherein the court convenes. It also is a policy of this court that all qualified citizens within the district shall have the opportunity to be considered for service on the juries of this court,

and shall have a corresponding obligation to serve as jurors when summoned for that purpose. Further, no citizen shall be excluded from service as a grand or petit juror in this court because of his or her race, color, religion, sex, national origin, or economic status.

The court has determined that computers and electronic data processing programs can be advantageously used, and are superior to manual methods, for establishing master and qualified jury wheels, qualifying jurors, randomly selecting grand and petit jurors, maintaining juror records, and automating jury clerical work. Accordingly, all references in this plan to “master jury wheels,” “qualified jury wheels,” or similar phrases shall be interpreted to mean a properly programmed electronic data processing system or device for retrieving and processing information stored in electronic database media.

Further, all references in this plan to “random selection” or similar phrases shall be interpreted to mean the selection of names of prospective jurors from complete source databases in electronic media by a purely randomized process through a properly programmed electronic data processing system conforming to standards promulgated from time to time by the Judicial Conference of the United States and the Administrative Office of United States Courts, and designed to ensure: that each county within the district or division is substantially proportionally represented; that the mathematical odds of any single name being selected are substantially equalized; and, that the possibility of human discretion or choice affecting the selection of any person’s name is eliminated.

III. MANAGEMENT AND SUPERVISION OF THE PLAN

The clerk of the court shall manage the jury selection process under the supervision and control of the chief judge or, during his or her absence, disability, or inability to act, the district judge who is present in the district and who has been in regular active service the greatest length of time. In performing the duties assigned under this plan, the clerk may utilize the services of jury clerks, deputy clerks, and non-court personnel employed by computer service centers authorized by the court.

IV. ESTABLISHMENT OF JURY WHEELS

A. Source Lists

The names of persons to be considered for service as grand or petit jurors shall be randomly selected from official voter registration lists maintained by the State of Alabama or local election officials of the counties comprising the district for the most recent federal general election held in the fall of even-numbered years. The clerk shall secure such lists from appropriate State or county officials in the form of electronic database media,

compensating the State or counties at the rates required by Alabama law.

B. Master Jury Wheels

The clerk shall maintain a master jury wheel for each Divisional Area in the district. The initial random selection of persons for inclusion in each master wheel shall be made as soon as practicable following approval of this plan by a reviewing panel of the Judicial Council of the Eleventh Circuit

The number of names to be initially placed in each master wheel shall be determined by multiplying the constant 60,000 by a factor derived by comparing the total number of registered voters residing in those counties composing a particular Divisional Area on the date of the most recent federal general election held in the fall of even-numbered years to the aggregate number of registered voters residing in the Northern District as a whole during the same election, but in no event less than one thousand names.

C. Emptying and Refilling Master Jury Wheels

Each master jury wheel shall be emptied and refilled at least every four years using voter registration lists from the most recent federal general election. If it should at any time appear that the names in a given master wheel will be exhausted before the prescribed time for refilling, the chief judge may order that it be refilled in advance of that time, and such refilling shall be in lieu of, and not in addition to, the next prescribed refilling. The number of names to be placed in a particular master jury wheel when refilling it shall be determined in the same manner described in section IV.B *supra*.

D. Certification of Compliance

Following the initial random selection of persons for inclusion in each master jury wheel and each succeeding refilling, the clerk shall require the execution of an affidavit by the director of the computer service center performing such functions. The affidavit shall attest, under penalty of perjury, the following facts: the date and manner of selection; the source and number of names in each wheel; an analysis of the demographic composition of each wheel; and, that all procedures specified in this plan governing the random selection of prospective jurors have been fully met in the automated phase of the selection process.

E. Qualified Jury Wheels

The clerk shall maintain a qualified jury wheel for each Divisional Area of the district. From time to time the clerk shall cause the names of as many persons as may be needed to maintain an adequate number of names in the qualified jury wheels to be randomly selected

from each Divisional Area master jury wheel, and shall mail to each person whose name is drawn a juror qualification form as defined in 28 U.S.C. § 1869(h). That questionnaire shall be accompanied by instructions to fill out and return the document, duly signed and sworn, to the clerk by mail within ten days. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk within ten days. The clerk then shall place into each qualified jury wheel the names of all persons who appear to be qualified, not exempt, and not subject to indefinite excuse from service in accordance with the procedures described in section VII *infra*.

Each qualified jury wheel shall be emptied and refilled within three months after the date the corresponding master jury wheel is emptied and refilled in accordance with section IV.C *supra*. The service of jury panels already drawn, or jurors selected and sworn in a particular case, shall not be affected by the emptying and refilling of the master and qualified wheels from which the panel members or jurors originally were selected.

V. DRAWING PETIT JURY PANELS

A. Selection and Summoning

Upon order by a judge of the court for a panel of petit jurors, the clerk shall randomly select from the appropriate Divisional Area qualified jury wheel the names of as many persons as may be needed for the selection of juries during that term of court. All persons so selected shall be summoned for service in the manner provided by 28 U.S.C. § 1866(b). All jurors so summoned shall appear for service unless determined to be unqualified, exempt, or excused from such service in accordance with the procedures described in section VII *infra*.

B. Shortages of Jurors

In the event of an unanticipated shortage of available jurors, the clerk shall order additional jurors to be summoned using the procedure set out above. If the shortage develops too close to the beginning date of a term of court to permit selection and summoning by that procedure, however, the court may instruct the clerk to summon jurors previously summoned from the current qualified jury wheel for that division who have not served for as many as 14 days.

C. Excess Jurors

The court may excuse jurors not needed as a result of an unanticipated excess in the

number of jurors, provided that such is not inconsistent with the policies and rights declared in 28 U.S.C. §§ 1861 and 1862. The court shall determine whether jurors so excused, or excused because of a cancellation of a term of court, shall be subject to recall on future panels for that same division.

D. Assignment to Panels

When assigning prospective jurors to petit jury strike panels, the clerk shall place the names of available petit jurors randomly selected from the appropriate Divisional Area qualified jury wheel as provided in this plan, and who are not found to be unqualified, exempt, or excused from such service in accordance with the procedures described in section VII *infra*, in a panel jury wheel. Thereafter, such number of names as are necessary for the selection and seating of petit juries in particular cases, civil or criminal, shall be randomly drawn from the petit jury wheel, randomly assigned to *voir dire* strike panel seating charts, and directed to the appropriate courtrooms in which jury selection processes shall occur.

VI. GRAND JURIES

Grand juries function on a district-wide basis. Accordingly, the names of persons to serve as grand jurors shall be randomly selected in substantially proportional percentages by drawing a pro rata, or substantially pro rata number of names from the qualified jury wheels of each Divisional Area in the district, and the names so drawn shall be pooled and shall constitute the grand juries to report for duty. The clerk shall prepare a list of names of all persons so selected and shall issue a summons for service in the manner provided by 28 U.S.C. § 1866(b). The names of persons drawn for service as grand jurors shall not be maintained in any public record or otherwise disclosed to the public, except upon the order of the district judge in charge of the grand jury on a showing that exceptional circumstances have created a demonstrated need for disclosure. Upon request for excusal, and if inspection of the juror qualification form of a person so selected reflects that the person should be excused from grand jury service, that person shall be returned to the appropriate divisional qualified jury wheel from which he or she was selected, and he or she shall be subject to subsequent random selection as a grand or petit juror when the reason for the excuse expires. Each grand jury shall serve for a period not to exceed eighteen months, unless extended by an order of the court, and such service shall not be affected by the emptying and refilling of the master and qualified wheels from which the panel members originally were selected.

VII. QUALIFICATIONS, EXEMPTIONS, EXCUSE, AND EXCLUSION

A. Procedure and Responsibility

Determinations as to whether, at the time of adding names to a particular qualified jury wheel, or at the time a particular jury panel is summoned or appears for service, a prospective juror is qualified, is exempt, should be excluded, or should be excused from service shall be made by a district judge of the court; provided, however, that such judge may delegate authority to the clerk or a deputy clerk under supervision of the judge to make determinations as to requests to be excused for undue hardship or extreme inconvenience. These determinations shall be made on the basis of the information provided by jurors on the juror qualification form and other competent evidence and in accordance with this plan and the laws under which this plan was adopted. The clerk shall enter such determination on the list of names from the master jury wheel or qualified jury wheel. If a person did not appear in response to summons, such fact also shall be noted on said list.

B. Qualifications For Jury Service

A person shall be deemed qualified for jury service pursuant to 28 U.S.C. § 1865(b), unless that person:

- (1) is not a citizen of the United States;
- (2) is less than 18 years of age;
- (3) has not resided in the Northern District of Alabama for a period of one year;
- (4) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (5) is unable to speak the English language;
- (6) is incapable of rendering satisfactory jury service by reason of mental or physical infirmity;
- (7) has a charge pending against him or her in a state or federal court of record for the commission of a crime punishable by imprisonment for more than one year; or
- (8) has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

C. Exemptions

A person is exempt and shall be barred from jury service pursuant to 28 U.S.C. § 1863(b)(6), if that person:

- (1) is a member in active service in the Armed Forces of the United States;
- (2) is a member of the fire or police department of any state or subdivision of a state;
or
- (3) is a public official¹ in the executive, legislative, or judicial branch of the Government of the United States or of any state or subdivision of a state who is actively engaged on a full-time basis in the performance of official duties.

D. Excuse From Jury Service

On individual request, a person may be excused from jury service indefinitely or for a particular term or terms of court if such person:

- (1) is an actively practicing physician, dentist, or registered nurse;
- (2) is 70 years of age or older;
- (3) has active care and custody of a child under 10 years of age, or of an aged or infirm person, whose health or safety would be jeopardized by the person's absence;
- (4) within the preceding two years has, either in federal or state court, (a) actually served on more than one grand jury, (b) actually served as a grand juror and a petit juror, or (c) actually attended court for service or prospective service as a petit juror for a total of more than twelve days;
- (5) will be actively engaged during the period of service as a full-time teacher or student;
- (6) serves a public agency in an official capacity, without compensation, as a firefighter or member of a rescue squad or ambulance crew; or
- (7) otherwise demonstrates that such jury service will entail undue hardship or extreme inconvenience.

The court finds pursuant to 28 U.S.C. § 1863(b)(5)(A) that jury service by the groups of persons described in clauses (1) through (5) above will entail undue hardship and extreme inconvenience to the members of such groups or classes, and that excuse of such persons upon their individual request will not be inconsistent with 28 U.S.C. §§ 1861 and 1862.

Unless excused indefinitely, a person excused at the time of adding persons to a divisional qualified jury wheel shall be returned to the qualified wheel where he or she will be subject to subsequent random selection when the reason for the excuse expires. Unless excused indefinitely, a person excused at the time a panel is summoned or appears for service shall be summoned for service on a panel thereafter summoned as to which the reason for the excuse does not apply.

When there is an excess of jurors present, either grand or petit, and their presence is required for only one day, the court shall, in its discretion, upon excusing the excess jurors, inform such persons that their names will be returned to the qualified jury wheel from which they originally were drawn, and such persons shall be subject to subsequent random selection.

E. Exclusion From Jury Service

A person may be excluded from jury service pursuant to 28 U.S.C. § 1866(c) if the court determines that:

- (1) such person may be unable to render impartial jury service;
- (2) such person's service would be likely to disrupt proceedings; or
- (3) such person's service would be likely to threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberations.

The name of any person excluded under clause (3) above, together with a detailed explanation for the exclusion, shall be immediately forwarded to the Judicial Council for the Eleventh Circuit. A person excluded from a particular jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury.

VIII. DISCLOSURE AND CONFIDENTIALITY

A. Disclosure

This plan is a public document and shall be made available to any person for inspection and copying during normal business hours of the court.

Lists of the names of, and other appropriate descriptive information (other than addresses and telephone numbers) concerning, persons summoned for service as petit jurors shall be made available for public inspection and copying at the time such persons are scheduled to report for service or at such earlier time as a district judge of this court may order; provided, however, that the judge of the court in which any of the prospective jurors concerned are expected to serve may, by special order, require that the clerk keep such names confidential in a case or cases where the interests of justice so require or may require limited disclosure necessary to permit the Secretary of the Treasury of the United States to respond to a request pursuant to 26 U.S.C. § 6103(h)(5).

Pursuant to 28 U.S.C. §§ 1864(a), 1866(a), and 1869(k), the clerk shall give reasonable public notice of the date upon which, and of the place of the data processing center located in or out of the district at which, juror names are to be drawn, and state that such procedures shall be open to the public at large under such supervision of the clerk as the Judicial Conference of the United States shall by regulation require.

B. Confidentiality

The contents of all other records or papers used by the clerk in connection with the jury selection process shall not be disclosed without the express consent of the chief judge, except pursuant to 28 U.S.C. § 1867(f).

C. Preservation of Records

The clerk shall preserve, in accordance with 28 U.S.C. § 1868, all records and papers compiled and maintained in connection with the jury selection process for a period of four years after the master wheels are emptied and refilled, or for such longer period as may be ordered by the court, and such records shall be available for public inspection for the purpose of determining the validity of the selection of any jury pursuant to 28 U.S.C. § 1867 *et seq.* Such records may then be destroyed, provided the means used is such as to ensure the confidentiality of their contents.

Executed on the _____ day of _____, 2000.